



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-852 Health care practitioners: electronic prescriptions. (2021-2022)

SHARE THIS:  

Date Published: 09/26/2022 10:00 AM

Assembly Bill No. 852

CHAPTER 518

An act to amend Section 688 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 25, 2022. Filed with Secretary of State September 25, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 852, Wood. Health care practitioners: electronic prescriptions.

Existing law requires health care practitioners authorized to issue prescriptions to have the capability to issue electronic data transmission prescriptions and requires a pharmacy, pharmacist, or other practitioner authorized to dispense or furnish a prescription to have the capability to receive electronic data transmission prescriptions. Existing law requires those health care practitioners to issue a prescription as an electronic data transmission prescription except under certain circumstances, including that the electronic prescription is unavailable due to a temporary technological or electrical failure. Existing law requires a pharmacy that receives an electronic prescription from a prescribing health care practitioner who has issued a prescription but has not dispensed the medication to, at the request of the patient, immediately transfer or forward the electronic prescription to an alternative pharmacy designated by the requester.

This bill would prohibit a pharmacy, pharmacist, or other practitioner authorized to dispense or furnish a prescription from refusing to dispense or furnish an electronic prescription solely because the prescription was not submitted via, or is not compatible with, their proprietary software. The bill would authorize a pharmacy, pharmacist, or other authorized practitioner to decline to dispense or furnish an electronic prescription submitted via software that fails to meet any one of specified criteria, including compliance with the federal Health Insurance Portability and Accountability Act of 1996. The bill would establish additional exceptions to the requirement that health care practitioners issue a prescription as an electronic data transmission prescription, including for a prescriber who registers with the California State Board of Pharmacy and states that they satisfy one or more criteria, including that they issue 100 or fewer prescriptions per calendar year. The bill would make specified exceptions to the requirement for a pharmacy to immediately transfer an electronic prescription to an alternative pharmacy upon request of the patient, including if the action would result in a violation of any state or federal law.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 688 of the Business and Professions Code is amended to read:

688. (a) A health care practitioner authorized to issue a prescription pursuant to Section 4040 shall have the capability to issue an electronic data transmission prescription, as defined under Section 4040, on behalf of a patient and to transmit that electronic data transmission prescription to a pharmacy selected by the patient.

(b) (1) A pharmacy, pharmacist, or other practitioner authorized under California law to dispense or furnish a prescription pursuant to Section 4040 shall have the capability to receive an electronic data transmission prescription on behalf of a patient.

(2) A pharmacy, pharmacist, or other practitioner authorized under California law to dispense or furnish a prescription pursuant to Section 4040 shall not refuse to dispense or furnish an electronic data transmission prescription solely because the prescription was not submitted via, or is not compatible with, the proprietary software of the pharmacy, pharmacist, or other dispensing practitioner.

(3) A pharmacy, pharmacist, or other practitioner authorized under California law to dispense or furnish a prescription pursuant to Section 4040 may decline to dispense or furnish an electronic data transmission prescription submitted via a software that fails to meet any of the following:

(A) Adheres to the National Council for Prescription Drug Programs SCRIPT standard, as modified from time to time.

(B) Complies with the prescription content requirements set forth in Section 4040.

(C) For a controlled substance prescription, complies with Parts 1300, 1304, 1306, and 1311 of Title 21 of the Code of Federal Regulations, as amended from time to time.

(D) Complies with the federal Health Insurance Portability and Accountability Act of 1996, the California Confidentiality of Medical Information Act, or the security and confidentiality requirements prescribed to by the pharmacy, pharmacist, or other practitioner authorized pursuant to Section 4040.

(c) For a prescription for a controlled substance, as defined by Section 4021, generation and transmission of the electronic data transmission prescription shall comply with Parts 1300, 1304, 1306, and 1311 of Title 21 of the Code of Federal Regulations, as amended from time to time.

(d) A prescription prescribed by a health care practitioner shall be issued as an electronic data transmission prescription. This subdivision shall not apply to prescriptions issued pursuant to subdivision (e).

(e) Subdivision (d) shall not apply to any of the following:

(1) The prescription is issued pursuant to Section 11159.2 of the Health and Safety Code.

(2) An electronic data transmission prescription is unavailable due to a temporary technological or electrical failure. For purposes of this paragraph, "temporary technological or electrical failure" means failure of a computer system, application, or device, or the loss of electrical power to that system, application, or device, or any other service interruption affecting the certified electronic data transmission prescription application used to transmit the prescription.

(3) The prescribing health care practitioner is issuing a prescription to be dispensed by a pharmacy located outside California.

(4) (A) The prescription is issued in a hospital emergency department or urgent care clinic and one or more of the following conditions are present:

(i) The patient resides outside California.

(ii) The patient resides outside the geographic area of the hospital.

(iii) The patient is homeless or indigent and does not have a preferred pharmacy.

(iv) The prescription is issued at a time when a patient's regular or preferred pharmacy is likely to be closed.

(B) Under any of the conditions described in subparagraph (A), a prescription shall be electronically issued but does not require electronic transmission and may be provided directly to the patient.

(5) The prescription is issued by a veterinarian.

(6) The prescription is for eyeglasses or contact lenses.

(7) The prescription is issued by a prescribing health care practitioner serving as a volunteer in a free clinic and receives no remuneration for their services.

(8) The prescribing health care practitioner and the dispenser are the same entity.

(9) The prescription is issued by a prescribing health care practitioner under circumstances whereby the practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by an electronic data transmission prescription in a timely manner, and the delay would adversely impact the patient's medical condition.

(10) The prescription that is issued includes elements not covered by the latest version of the National Council for Prescription Drug Programs' SCRIPT standard, as amended from time to time.

(11) (A) The prescriber registers with the California State Board of Pharmacy in a manner and format determined by the board, stating that they meet one or more of the following criteria:

(i) Their practice is located in the area of an emergency or disaster declared by a federal, state, or local government.

(ii) They issue 100 or fewer prescriptions per calendar year.

(iii) They are unable to issue electronic data transmission prescriptions due to circumstances beyond their control.

(B) The prescriber shall annually submit the registration required in subparagraph (A) to the California State Board of Pharmacy and maintain documentation of the circumstances qualifying them for exemption under subparagraph (A).

(C) The California State Board of Pharmacy shall post a list of prescribers meeting the requirements of subparagraph (A) on its internet website.

(f) A health care practitioner who issues a prescription for a controlled substance but does not transmit the prescription as an electronic data transmission prescription shall document the reason in the patient's medical record as soon as practicable and within 72 hours of the end of the technological or electrical failure that prevented the electronic data transmission of the prescription.

(g) (1) A pharmacy that receives an electronic data transmission prescription from a prescribing health care practitioner who has issued the prescription but has not dispensed the medication to the patient shall, at the request of the patient or a person authorized to make a request on behalf of the patient, immediately transfer or forward the electronic data transmission prescription to an alternative pharmacy designated by the requester, unless one of the following applies:

(A) The action would result in a violation of any state or federal law.

(B) The action is not supported by the latest version of the National Council for Prescription Drug Programs SCRIPT standard, as amended from time to time.

(2) If a pharmacy is prohibited from transferring or forwarding electronic data transmission prescriptions, as specified in paragraph (1), to a designated alternative pharmacy, and that prohibition is subsequently removed, then that pharmacy shall implement, within one year from the date the prohibition is removed, the necessary provisions to allow for the transferring or forwarding of an electronic data transmission prescription.

(h) If a pharmacy, or its staff, is aware that an attempted transmission of an electronic data transmission prescription failed, is incomplete, or is otherwise not appropriately received, the pharmacy shall immediately notify the prescribing health care practitioner.

(i) A pharmacist who receives a written, oral, or faxed prescription shall not be required to verify that the prescription properly falls under one of the exceptions in subdivision (e). Pharmacists may continue to dispense medications from legally valid written, oral, or fax prescriptions pursuant to this division.

(j) A health care practitioner, pharmacist, or pharmacy who fails to meet the applicable requirements of this section shall be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board. This section does not create a private right of action against a health care practitioner. This section does not limit a health care practitioner's liability for the negligent failure to diagnose or treat a patient.

(k) This section shall not apply to a health care practitioner, pharmacist, or pharmacy when providing health care services to an inmate, individual on parole, or youth under the jurisdiction of the Department of Corrections and Rehabilitation.